

# DOD Lease Authority

## A. Specific Provisions.<sup>1</sup>

### **Long-term lease or charter authority for certain double-hull tankers and oceanographic vessels.<sup>2</sup>**

(a) **Authority.** The Secretary of the Navy may enter into a long-term lease or charter for any double-hull tanker or oceanographic vessel constructed in a United States shipyard after the date of the enactment of this Act using assistance provided under the National Shipbuilding Initiative.

(b) **Conditions on obligation of funds.** Unless budget authority is specifically provided in an appropriations Act for the lease or charter of vessels pursuant to subsection (a), the Secretary may not enter into a contract for a lease or charter pursuant to that subsection unless the contract includes the following provisions:

(1) A statement that the obligation of the United States to make payments under the contract in any fiscal year is subject to appropriations being provided specifically for that fiscal year and specifically for that lease or charter or that kind of vessel lease or charter.

(2) A commitment to obligate the necessary amount for each fiscal year covered by the contract when and to the extent that funds are appropriated for that lease or charter, or that kind of lease or charter, for that fiscal year.

(3) A statement that such a commitment given under paragraph (2) does not constitute an obligation of the United States.

(c) **Inapplicability of certain laws.** A long-term lease or charter authorized by subsection (a) may be entered into without regard to the provisions of section 2401 or 2401a of title 10, United States Code.

(d) **Definition.** For purposes of subsection (a), the term ‘long-term lease or charter’ has the meaning given that term in subparagraph (A) of section 2401(d)(1) of title 10, United States Code.

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<sup>1</sup> See also the provision on the charter of vessels constructed under the Fast Sealift Program provided in Section 1424(c) of Public Law 101-510, as amended (10 U.S.C. 7291, note), set forth on page 199, *supra*.

<sup>2</sup> Enacted by Section 126 of Public Law 103-160, approved November 30, 1993 (107 STAT. 1567), as amended by Section 4321(i)(1)(A) of Public Law 104-106, approved February 10, 1996 (110 STAT. 676)(10 U.S.C. 2401, note).

**10 U.S.C. 7233 (1999). Auxiliary vessels; extended lease authority.<sup>3</sup>**

**(a) Authorized Contracts.** Subject to subsection (b), the Secretary of the Navy may enter into contracts with private United States shipyards for the construction of new surface vessels to be acquired on a long-term lease basis by the United States from the shipyard or other private person for any of the following:

- (1) The combat logistics force of the Navy.
- (2) The strategic sealift force of the Navy.
- (3) Other auxiliary support vessels for the Department of Defense.

**(b) Contracts Required to be Authorized by Law.** A contract may be entered into under subsection (a) with respect to a specific vessel only if the Secretary is specifically authorized by law to enter into such a contract with respect to that vessel. As part of a request to Congress for enactment of any such authorization by law, the Secretary of the Navy shall provide to Congress the Secretary's findings under subsection (g).

**(c) Term of Contract.** In this section, the term "long-term lease" means a lease, bareboat charter, or conditional sale agreement with respect to a vessel the term of which (including any option period) is for a period of 20 years or more.

**(d) Option to Buy.** A contract entered into under subsection (a) may include options for the United States to purchase one or more of the vessels covered by the contract at any time during, or at the end of, the contract period (including any option period) upon payment of an amount equal to the lesser of (1) the unamortized portion of the cost of the vessel plus amounts incurred in connection with the termination of the financing arrangements associated with the vessel, or (2) the fair market value of the vessel.

**(e) Domestic Construction.** The Secretary shall require in any contract entered into under this section that each vessel to which the contract applies-

- (1) shall have been constructed in a shipyard within the United States, and
- (2) upon delivery, shall be documented under the laws of the United States.

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<sup>3</sup> 10 U.S.C. 7233 was added by Section 1014(a) of Public Law 106-65, approved October 5, 1999 (113 STAT. 741). Section 1014(b) substantially expanded the definition of a Fast Sealift Ship in 10 U.S.C. 2218(k)(2). Section 1014(c) provides that these provisions shall take effect on October 1, 1999.

**(f) Vessel Operation.**

(1) The Secretary may operate a vessel held by the Secretary under a long-term lease under this section through a contract with a United States corporation with experience in the operation of vessels for the United States. Any such contract shall be for a term as determined by the Secretary.

(2) The Secretary may provide a crew for any such vessel using civil service mariners only after an evaluation taking into account-

(A) the fully burdened cost of a civil service crew over the expected useful life of the vessel.

(B) the effect on the private sector manpower pool; and

(C) the operational requirements of the Department of the Navy.

**(g) Contingent Waiver of Other Provisions of Law.**

(1) The Secretary may waive the applicability of subsections (e)(2) and (f) of section 2401 of this title to a contract authorized by law as provided in subsection (b) if the Secretary makes the following findings with respect to that contract:

(A) The need for the vessels or services to be provided under the contract is expected to remain substantially unchanged during the contemplated contract or option period.

(B) There is a reasonable expectation that throughout the contemplated contract or option period the Secretary of the Navy (or, if the contract is for services to be provided to, and funded by, another military department, the Secretary of that military department) will request funding for the contract at the level required to avoid contract cancellation.

(C) The timeliness of consideration of the contract by Congress is such that such a waiver is in the interest of the United States.

(2) The Secretary shall submit a notice of any waiver under paragraph (1) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

**(h) Source of Funds for Termination Liability.** If a contract entered into under this section is terminated, the costs of such termination may be paid from-

(1) amounts originally made available for performance of the contract;

(2) amounts currently available for operation and maintenance of the type of vessels or services concerned and not otherwise obligated; or

(3) funds appropriated for those costs.

## **B. General Provisions**

### **10 U.S.C. 2401 (1999). Requirement for authorization by law of certain contracts relating to vessels and aircraft**

(a) (1) The Secretary of a military department may make a contract for the lease of a vessel or aircraft or for the provision of a service through use by a contractor of a vessel or aircraft only as provided in subsection (b) if—

(A) the contract will be a long-term lease or charter; or

(B) the terms of the contract provide for a substantial termination liability on the part of the United States.

(2) The Secretary of a military department may make a contract that is an agreement to lease or charter or an agreement to provide services and that is (or will be) accompanied by a contract for the actual lease, charter, or provision of services only as provided in subsection (b) if the contract for the actual lease, charter, or provision of services is (or will be) a contract described in paragraph (1).

(b)(1) The Secretary may make a contract described in subsection (a)(1) if-

(A) the Secretary has been specifically authorized by law to make the contract;

(B) before a solicitation for proposals for the contract was issued the Secretary notified the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committees on Appropriations of the House of Representatives of the Secretary's intention to issue such a solicitation; and

(C) the Secretary has notified those committees of the proposed contract and provided a detailed description of the terms of the proposed contract and a justification for entering into the proposed contract rather than providing for the lease, charter, or services involved through purchase of the vessel or aircraft to be used under the contract, and a period of 30 days of continuous session of Congress has expired following the date on which notice was received by such committees.

(2) For purposes of paragraph (1)(C), the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days to which either House is not in session because of an adjournment of more than three days to a day certain are excluded in a computation of such 30-day period.

(c)(1) Funds may not be appropriated for any fiscal year to or for any armed force or obligated or expended for—

(A) the long-term lease or charter of any aircraft or naval vessel; or

(B) for the lease or charter of any aircraft or naval vessel the terms of which provide for a substantial termination liability on the part of the

United States, unless funds for that purpose have been specifically authorized by law.

(2) Funds appropriated to the Department of Defense may not be used to indemnify any person under the terms of a contract entered into under this section—

(A) for any amount paid or due by any person to the United States for any liability arising under the Internal Revenue Code of 1986; or

(B) to pay any attorneys' fees in connection with such contract.

(d) (1) (A) In this section, the term “long-term lease or charter” (except as provided in subparagraph (B)) means a lease, charter, service contract, or conditional sale agreement—

(i) the term of which is for a period of five years or longer or more than one-half the useful life of the vessel or aircraft; or

(ii) the initial term of which is for a period of less than five years but which contains an option to renew or extend the agreement for a period which, when added to the initial term (or any previous renewal or extension), is five years or longer.

Such term includes the extension or renewal of a lease or charter agreement if the term of the extension or renewal thereof is for a period of five years or longer or if the term of the lease or charter agreement being extended or renewed was for a period of five years or longer.

(B) In the case of an agreement under which the lessor first places the property in service under the agreement or the property has been in service for less than one year and there is allowable to the lessor or charterer an investment tax credit or depreciation for the property leased, chartered, or otherwise provided under the agreement under section 168 of the Internal Revenue Code of 1986 (unless the lessor or charterer has elected depreciation on a straightline method for such property), the term “long-term lease or charter” means a lease, charter, service contract, or conditional sale agreement—

(i) the term of which is for a period of three years or longer; or

(ii) the initial term of which is for a period of less than three years but which contains an option to renew or extend the agreement for a period which, when added to the initial term (or any previous renewal or extension), is three years or longer.

Such term includes the extension or renewal of a lease or charter agreement if the term of the extension or renewal thereof is for a period of three years or longer or if the term of the lease or charter agreement being extended or renewed was for a period of three years or longer.

(2) For the purposes of this section, the United States shall be considered to have a substantial termination liability under a contract—

(A) if there is an agreement by the United States under the contract

to pay an amount not less than the amount equal to 25 percent of the value of the vessel or aircraft under lease or charter, calculated on the basis of the present value of the termination liability of the United States under such charter or lease (as determined under regulations prescribed by the Secretary of Defense); or

(B) if (as determined under regulations prescribed by the Secretary of Defense) the sum of—

(i) the present value of the amount of the termination liability of the United States under the contract as of the end of the term of the contract (exclusive of any option to extend the contract); and

(ii) the present value of the total of the payments to be made by the United States under the contract (excluding any option to extend the contract) attributable to capital-hire,

is more than one-half the price of the vessel or aircraft involved.

(e)(1) Whenever a request is submitted to Congress for the authorization of the long-term lease or charter of aircraft or naval vessels or for the authorization of a lease or charter of aircraft or naval vessels which provides for a substantial termination liability on the part of the United States, the Secretary of Defense shall submit with that request an analysis of the cost to the United States (including lost tax revenues) of any such lease or charter arrangement compared with the cost to the United States of direct procurement of the aircraft or naval vessels by the United States.

(2) Any such analysis shall be reviewed and evaluated by the Director of the Office of Management and Budget and the Secretary of the Treasury within 30 days after the date on which the request and analysis are submitted to Congress. The Director and Secretary shall conduct such review and evaluation on the basis of the guidelines issued pursuant to subsection (f) and shall report to Congress in writing on the results of their review and evaluation at the earliest practicable date, but in no event more than 45 days after the date on which the request and analysis are submitted to the Congress.

(3) Whenever a request is submitted to Congress for the authorization of funds for the Department of Defense for the long-term lease or charter of aircraft or naval vessels authorized under this section, the Secretary of Defense—

(A) shall indicate in the request what portion of the requested funds is attributable to capital-hire; and

(B) shall reflect such portion in the appropriate procurement account in the request.

(f) The Director of the Office of Management and Budget and the Secretary of the Treasury shall jointly issue guidelines for determining

under what circumstances the Department of Defense may use lease or charter arrangements for aircraft and naval vessels rather than directly procuring such aircraft and vessels.

**10 U.S.C. 2401a (1999). Lease of vehicles, equipment, vessels, and aircraft.**

**(a) Leasing of commercial vehicles and equipment.** The Secretary of Defense may use leasing in the acquisition of commercial vehicles and equipment whenever the Secretary determines that such leasing is practicable and efficient.

**(b) Limitation on contracts with terms of 18 months or more.** The Secretary of Defense or the Secretary of a military department may not enter into any contract with a term of 18 months or more, or extend or renew any contract for a term of 18 months or more, for any vessel, aircraft, or vehicle, through a lease, charter, or similar agreement, unless the Secretary has considered all costs of such contract (including estimated termination liability) and has determined in writing that the contract is in the best interest of the Government.

# **DOD Transportation of Humanitarian Aid**

**10 U.S.C. 402 (1999). Transportation of humanitarian relief supplies to foreign countries.**

(a) Notwithstanding any other provision of law, and subject to subsection (b), the Secretary of Defense may transport to any country, without charge, supplies which have been furnished by a nongovernmental source and which are intended for humanitarian assistance. Such supplies may be transported only on a space available basis.

(b)(1) The Secretary may not transport supplies under subsection (a) unless the Secretary determines that—

(A) the transportation of such supplies is consistent with the foreign policy of the United States;

(B) the supplies to be transported are suitable for humanitarian purposes and are in usable condition;

(C) there is a legitimate humanitarian need for such supplies by the people for whom they are intended;

(D) the supplies will in fact be used for humanitarian purposes; and

(E) adequate arrangements have been made for the distribution of such supplies in the destination country.

(2) The President shall establish procedures for making the determinations required under paragraph (1). Such procedures shall include inspection of supplies before acceptance for transport.

(3) It shall be the responsibility of the donor to ensure that supplies to be transported under this section are suitable for transport.

(c)(1) Supplies transported under this section may be distributed by an agency of the United States Government, a foreign government, an international organization, or a private nonprofit relief organization.

(2) Supplies transported under this section may not be distributed, directly or indirectly, to any individual, group, or organization engaged in a military or paramilitary activity.

(d) Not later than July 31 each year, the Secretary of State shall submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on International Relations of the House of Representatives a report identifying the origin, contents, destination, and disposition of all supplies transported under this section during the 12-month period ending on the preceding June 30.



# Motor Vehicle Transportation

**10 U.S.C. 2634 (1999). Motor vehicles: transportation or storage for members on change of permanent station or extended deployment.**

(a) When a member of an armed force is ordered to make a change of permanent station, one motor vehicle that is owned or leased by the member (or a dependent of the member) and is for the personal use of the member or his dependents may, unless a motor vehicle owned or leased by him (or a dependent of his) was transported in advance of that change of permanent station under section 406(h) of title 37, be transported, at the expense of the United States, to his new station or such other place as the Secretary concerned may authorize—

(1) on a vessel owned, leased, or chartered by the United States;

(2) by privately owned American shipping services;

(3) by foreign-flag shipping services if shipping services described in clauses (1) and (2) are not reasonably available;

(4) by other surface transportation if such means of transport does not exceed the cost to the United States of other authorized means.

When the Secretary concerned determines that a replacement for that motor vehicle is necessary for reasons beyond the control of the member and is in the interest of the United States, and he approves the transportation in advance, one additional motor vehicle of the member (or a dependent of the member) may be so transported.

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(c) When there has been a shipping error, or when orders directing a change of permanent station have been canceled, revoked, or modified after receipt by the member, a motor vehicle transported pursuant to this section may also be reshipped or transshipped in accordance with this section.

(d) When the Secretary concerned makes a determination under section 406(j) of title 37 that the dependents of a member on a permanent change of station are unable to accompany the member to an overseas duty station because of unexpected and uncontrollable circumstances, and the member shipped a motor vehicle pursuant to this section in anticipation of a dependent accompanying the member to the new duty station, the member may reship or tranship such motor vehicle in accordance with this section.

(e) The Secretary of Defense (and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy) may prescribe regulations limiting those leased motor vehicles that may be transported pursuant to this section based upon the

length of the lease and other terms and conditions of the lease that the Secretary considers appropriate.

(f) No carrier, port agent, warehouseman, freight forwarder, or other person involved in the transportation of property may have any lien on, or hold, impound, or otherwise interfere with, the movement of a motor vehicle being transported under this section.

(g) If a motor vehicle of a member (or a dependent of the member) that is transported at the expense of the United States under this section does not arrive at the authorized destination of the vehicle by the designated delivery date, the Secretary concerned shall reimburse the member for expenses incurred after that date to rent a motor vehicle for the member's use, or for the use of the dependent for whom the delayed vehicle was transported. The amount reimbursed may not exceed \$30 per day, and the rental period for which reimbursement may be provided expires after 7 days or on the date on which the delayed vehicle arrives at the authorized destination (whichever occurs first).

(h) In this section:

(1) The term "change of permanent station" means the transfer or assignment of a member of the armed forces from a permanent station inside the continental United States to a permanent station outside the continental United States or from a permanent station outside the continental United States to another permanent station. It also includes an authorized change in home port of a vessel, or a transfer or assignment between two permanent stations in the continental United States when the member cannot, because of injury or the conditions of the order, drive the motor vehicle between the permanent duty stations.

(2) The term "continental United States" does not include Alaska.

# NATIONAL MARITIME ENHANCEMENT INSTITUTES

## NATIONAL MARITIME ENHANCEMENT INSTITUTES (46 App. U.S.C. 1121-2 (1999)).

(a) The Secretary of Transportation may designate National Maritime Enhancement Institutes.

(b) Activities undertaken by such an Institute may include—

(1) conducting research concerning methods for improving the performance of maritime industries;

(2) enhancing the competitiveness of domestic maritime industries in international trade;

(3) forecasting trends in maritime trade;

(4) assessing technological advancements;

(5) developing management initiatives and training;

(6) analyzing economic and operational impacts of regulatory policies and international negotiations or agreements pending before international bodies;

(7) assessing the compatibility of domestic maritime infrastructure systems with overseas transport systems;

(8) fostering innovations in maritime transportation pricing; and

(9) improving maritime economics and finance.

(c) An institution seeking designation as a National Maritime Enhancement Institute shall submit an application under regulations prescribed by the Secretary.

(d) The Secretary shall designate an Institute under this section on the basis of the following criteria:

(1) the demonstrated research and extension resources available to the designee for carrying out the activities specified in subsection (b);

(2) the capability of the designee to provide leadership in making national and regional contributions to the solution of both long-range and immediate problems of the domestic maritime industry;

(3) the existence of an established program of the designee encompassing research and training directed to enhancing maritime industries;

(4) the demonstrated ability of the designee to assemble and evaluate pertinent information from national and international sources and to disseminate results of maritime industry research and educational programs through a continuing education program; and

(5) the qualification of the designee as a nonprofit institution of higher learning.

(e) The Secretary may make awards on an equal matching basis to an institute designated under subsection (a) from amounts appropriated. The aggregate annual amount of the Federal share of the awards by the Secretary shall not exceed \$500,000.

# **MERCHANT SHIP SALES ACT OF 1946**

## **SEC. 2. DECLARATION OF POLICY (50 U.S.C. App. 1735 (1999)).**

(a) It is necessary for the national security and development and maintenance of the domestic and the export and import foreign commerce of the United States that the United States have an efficient and adequate American-owned merchant marine (1) sufficient to carry its domestic water-borne commerce and a substantial portion of its water-borne export and import foreign commerce and to provide shipping service on all routes essential for maintaining the flow of such domestic and foreign water-borne commerce at all times; (2) capable of serving as a naval and military auxiliary in time of war or national emergency; (3) owned and operated under the United States flag by citizens of the United States; (4) composed of the best-equipped, safest, and most suitable types of vessels, constructed in the United States and manned with a trained and efficient citizen personnel; and (5) supplemented by efficient American-owned facilities for shipbuilding and ship repair, marine insurance, and other auxiliary services.

(b) It is hereby declared to be the policy of this Act to foster the development and encourage the maintenance of such a merchant marine.

## **SEC. 3. DEFINITIONS (50 U.S.C. App. 1736 (1999)).**

As used in this Act the term—

(a) “Secretary” means the Secretary of Transportation.

(g) “Citizen of the United States” includes a corporation, partnership, or association only if it is a citizen of the United States within the meaning of section 2 of the Shipping Act of 1916, as amended. The term “affiliated interest” as used in sections 9 and 10 of this Act includes any person affiliated or associated with a citizen applicant for benefits under this Act who the Secretary, pursuant to rules and regulations prescribed hereunder, determines should be so included in order to carry out the policy and purposes of this Act.

## **SEC. 5. CHARTER OF VESSELS (50 U.S.C. App. 1738 (1999)).**

(c) **Laws Applicable to Charter Hire.** The provisions of sections 708, 709, 710, 712, and 713, of the Merchant Marine Act, 1936, as amended, shall be applicable to charters made under this section.

(e) **Proceedings and Findings; Extension of Charters.**

(1) Notwithstanding the provisions of sections 11 and 14 of this Act, as amended, war-built dry-cargo vessels owned by the United States on or after June 30, 1950, may be chartered pursuant to this Act for bare-boat use in any service which, in the opinion of the Maritime

Administration, is required in the public interest and is not adequately served, and for which privately owned American flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service. No charters shall be made by the Secretary of Transportation under authority of this subsection until the Maritime Administration shall have given due notice to all interested parties and shall have afforded such parties an opportunity for a public hearing on such charters and shall have certified its findings to the Secretary of Transportation. The Secretary of Transportation is authorized to include in such charters such restrictions and conditions as the Maritime Administration determines to be necessary or appropriate to protect the public interest in respect of such charters and to protect privately owned vessels against competition from vessels chartered under this section: Provided, however, That all such charters shall contain a provision that they will be reviewed annually by the Maritime Administration with recommendations to the Secretary of Transportation, for the purpose of determining whether conditions exist justifying continuance of the charters under the provisions of this subsection.

(2) A charter existing on June 30, 1950, with respect to a war-built dry-cargo vessel may be extended to October 31, 1950, if application is made within ten days after the enactment hereof for the charter of such vessel under subsection (e) of this section and if the Secretary of Transportation deems such extension is justified in accordance with the provisions of section 5(e)(1): Provided, however, That a new voyage under such extended charter shall not be begun after October 31, 1950, unless it has been determined prior to such date, in accordance with the procedure set forth in this subsection, that the continued use of the vessel in the service is required. The Maritime Administration shall conduct all hearings on applications made under the paragraph immediately upon receipt thereof and shall promptly certify its findings to the Secretary of Transportation, provided that all such certifications shall be made not later than October 31, 1950.

**(f) Charter of Passenger Vessels.**

(1) Notwithstanding the provisions of sections 11 and 14 of this Act, as amended, the Secretary of Transportation may charter any passenger vessel, whether or not war-built, owned by the United States on or after June 30, 1950, pursuant to title VII of the Merchant Marine Act, 1936, as amended, and may charter any war-built passenger vessel owned by the United States for use in the domestic trade of the United States, under the conditions prescribed for the charter of war-built cargo vessels in subsection (e) of this section.

(2) Charters existing on June 30, 1950, with respect to passenger vessels may be continued until December 31, 1951, or until expiration thereof by the terms of their provisions.

**SEC. 8. EXCHANGE OF VESSELS (50 U.S.C. App. 1741 (1999)).**

(d) **Transfer of Substitute Vessels.** In the case of any vessel constructed in the United States after January 1, 1937, which has been taken by the United States for use in any manner, the Secretary, if in its opinion the transfer would aid in carrying out the policies of this Act, is authorized to transfer to the owner of such vessel another vessel which is deemed by the Secretary to be of comparable type with adjustments for depreciation and difference in design or speed, and to the extent applicable, adjustments with respect to the retained vessel as provided for in section 9, and such other adjustments and terms and conditions, including transfer of mortgage obligations in favor of the United States binding upon the old vessel, as the Secretary may prescribe.

**SEC. 11. NATIONAL DEFENSE RESERVE FLEET (50 U.S.C. App. 1744 (1999)).**

Section 11 provides for the National Defense Reserve Fleet, and is set forth below under that heading.

**SEC. 12. RECONVERSION OF VESSELS FOR NORMAL COMMERCIAL OPERATION; APPLICABILITY OF OTHER LAWS TO CONSTRUCTION CONTRACTS; COASTWISE TRADE; DISPOSITION OF MONEYS; GREAT LAKES TRADE (50 U.S.C. App. 1745 (1999)).**

(a) The Secretary is authorized to reconvert or restore for normal operation in commercial services and to convert for operation on the Great Lakes, including the Saint Lawrence River and Gulf, and their connecting waterways, including removal of national defense or war-service features, any vessel authorized to be sold or chartered under this Act. The Secretary is authorized to make such replacements, alterations, or modifications with respect to any vessel authorized to be sold or chartered under this Act, and to install therein such special features, as may be necessary or advisable to make such vessel suitable for commercial operation on trade routes or services or comparable as to commercial utility to other such vessels of the same general type.

# NATIONAL DEFENSE RESERVE FLEET READY RESERVE FORCE

## A. BASIC STATUTORY AUTHORITY.

### SEC. 11. NATIONAL DEFENSE RESERVE FLEET (50 U.S.C. App. 1744 (1999)).

(a) **Fleet Components.** The Secretary of Transportation shall maintain a National Defense Reserve Fleet, including any vessel assigned by the Secretary to the Ready Reserve Force component of the fleet, consisting of those vessels owned or acquired by the United States Government that the Secretary of Transportation, after consultation with the Secretary of the Navy, determines are of value for national defense purposes and that the Secretary of Transportation decides to place and maintain in the fleet.

(b)<sup>1</sup> **Permitted Uses.** Except as otherwise provided by law, a vessel in the fleet may be used—

(1) for an account of an agency of the United States Government in a period during which vessels may be requisitioned under section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242); or

(2) on the request of the Secretary of Defense, and in accordance with memoranda of agreement between the Secretary of Transportation and the Secretary of Defense, for—

(A) testing for readiness and suitability for mission performance;

(B) defense sealift functions for which other sealift assets are not reasonably available; and

(C) support of the deployment of the United States armed forces in a military contingency, for military contingency operations, or for civil contingency operations upon orders from the National Command Authority;

(3) for otherwise lawfully permitted storage or transportation of non-defense-related cargo as directed by the Secretary of Transportation with the concurrence of the Secretary of Defense; or

(4) for training purposes to the extent authorized by the Secretary of Transportation with the concurrence of the Secretary of Defense.

### (c) **Ready Reserve Force Management.**

(1) **Minimum Requirements.** To ensure the readiness of vessels in the Ready Reserve Force component of the National Defense Reserve Fleet, the Secretary of Transportation shall, at a minimum—

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<sup>1</sup> Section 6205(a) of Public Law 102-587, approved November 4, 1992 (106 STAT. 5094), reinstated subsection (b) and provides: "The effective date of this subsection is December 12, 1989."



(A) maintain all of the vessels in a manner that will enable each vessel to be activated within a period specified in plans for mobilization of the vessels;

(B) activate and conduct sea trials on each vessel at least once every twenty-four months;

(C) maintain in an enhanced activation status those vessels that are scheduled to be activated within 5 days;

(D) locate those vessels that are scheduled to be activated within 5 days near embarkation ports specified for those vessels; and

(E) notwithstanding section 2109 of title 46, United States Code, have each vessel inspected by the Secretary of the department in which the Coast Guard is operating to determine if the vessel meets the safety standards that would apply under part B of subtitle II of that title if the vessel were not a public vessel.

## **(2) *Vessel Managers.***

(A) *Eligibility for Contract.* A person, including a shipyard, is eligible for a contract for the management of a vessel in the Ready Reserve Force if the Secretary determines, at a minimum, that the person has—

(i) experience in the operation of commercial-type vessels or public vessels owned by the United States Government; and

(ii) the management capability necessary to operate, maintain, and activate the vessel at a reasonable price.

(B) *Contract Requirement.* The Secretary of Transportation shall include in each contract for the management of a vessel in the Ready Reserve Force a requirement that each seaman who performs services on any vessel covered by the contract hold the license or merchant mariner's document that would be required under chapter 71 or chapter 73 of title 46, United States Code for a seaman performing that service while operating the vessel if the vessel were not a public vessel.

(e) **Exemption of Fleet from 46 U.S.C. 3703a.** Vessels in the National Defense Reserve Fleet are exempt from the provisions of section 3703a of title 46, United States Code.<sup>2</sup>

## **B. CERTAIN LAWS AFFECTING THE NATIONAL DEFENSE RESERVE FLEET**

### **1. FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.**

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<sup>2</sup> 46 U.S.C. 3703a, **Tank Vessel Construction Standards**, provides for the so-called double hull requirement.

**a. Maritime Administration Authority to Dispose of Vessels.**

Section 203 of the Federal Property and Administrative Services Act, of 1949, as amended (40 U.S. C. 484 (1999)) provides:

**40 U.S.C. 484 (1999). Disposal of Surplus Property.**

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(i) **Vessel; laws governing sales.** The Maritime Administration shall dispose of surplus vessels of one thousand five hundred gross tons or more which the Administration determines to be merchant vessels or capable of conversion to merchant use, and such vessels shall be disposed of only in accordance with the provisions of the Merchant Marine Act, 1936, as amended, and other laws authorizing the sale of such vessels.

**b. Exclusion of Certain Maritime Administration Authority.**

Section 602 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 474 (1999)), provides:

**40 U.S.C. 474 (1999). Congress, departments, agencies, corporations, and persons exempted from provisions.** The authority conferred by this Act shall be in addition and paramount to any authority conferred by any other law and shall not be subject to the provisions of any law inconsistent herewith, except as otherwise provided by the Office of Federal Procurement Policy Act [41 U.S.C. 401 *et. seq.*], and except that sections 205(b) and 206(c) of this Act [40 U.S.C. 486(b), 487(c)] shall not be applicable to any Government corporation or agency which is subject to the Government Corporation Control Act (59 Stat. 597; 31 U.S.C. 841).

(d) Nothing in this Act shall impair or affect any authority of—

\* \* \* \* \*

(16) the Maritime Administration with respect to the construction, reconstruction, and reconditioning (including outfitting and equipping incident to the foregoing), the acquisition, procurement, operation, maintenance, preservation, sale, lease, or charter of any merchant vessel or of any shipyard, ship site, terminal, pier, dock, warehouse, or other installation necessary or appropriate for the carrying out of any program of such Administration authorized by law, or nonadministrative activities incidental thereto: Provided, That the Maritime Administration shall to the maximum extent that it may deem practicable, consistent with the fulfillment of the purposes of such programs and the effective and efficient conduct of such activities, coordinate its operations with the requirements of this Act, and the policies and regulations prescribed pursuant thereto;

\* \* \* \* \*

**2. DISPOSAL OF CERTAIN NDRF VESSELS.**

**National Defense Authorization Act for Fiscal Year 1999.** Public Law 105 - 261, approved October 17, 1998 (112 STAT. 1920, 2272), contains the following sections:

**Sec. 3602. Authority to Convey National Defense Reserve Fleet Vessel.**

(a) **Authority To Convey.**—The Secretary of Transportation may convey all right, title, and interest of the United States Government in and to the vessel M/V BAYAMON (United States official number 530007) to a purchaser for use as a self-propelled floating trade exposition to showcase United States technology, industrial products, and services.

(b) **Terms of Conveyance.**—

(1) *Delivery of vessel.*— In carrying out subsection (a), the Secretary shall deliver the vessel—

(A) at the place where the vessel is located on the date of conveyance;

(B) in its condition on that date; and

(C) at no cost to the United States Government.

(2) *Required conditions.*— The Secretary may not convey a vessel under this section unless—

(A) competitive procedures are used for sales under this section;

(B) the vessel is sold for not less than the fair market value of the vessel in the United States, as determined by the Secretary of Transportation;

(C) the recipient agrees that any repair, except for emergency repairs, restoration, or reconstruction work for the vessel will be performed in the United States;

(D) the recipient agrees to hold the Government harmless for any claims arising from exposure to hazardous material, including asbestos and polychlorinated biphenyls, after the conveyance of the vessel, except for claims arising before the date of the conveyance or from use of the vessel by the Government after that date; and

(E) the recipient provides sufficient evidence to the Secretary that it has adequate financial resources in the form of cash, liquid assets, or a written loan commitment to complete the reconstruction of the vessel.

(3) *Additional terms.*— The Secretary may require such additional terms in connection with the conveyance authorized by this section as the Secretary considers appropriate.

(c) **Proceeds.**—Any amounts received by the United States as proceeds from the sale of the M/V BAYAMON shall be deposited in the Vessel Operations Revolving Fund established by section 801 of the Act of June 2, 1951 (65 Stat. 59; 46 U.S.C. App. 1241a) and shall be available and expended in accordance with section 6(a) of the National Maritime Heritage Act (16 U.S.C. App. 5405(a)).

### **SEC. 3603. AUTHORITY TO CONVEY CERTAIN NATIONAL DEFENSE RESERVE FLEET VESSELS.**

(a) **Authority To Convey.**—The Secretary of Transportation may convey all right, title, and interest of the United States Government in and to the vessels BENJAMIN ISHERWOOD (TAO-191) and HENRY ECKFORD (TAO-192) to a purchaser for the limited purpose of reconstruction of those vessels for sale or charter to a North Atlantic Treaty Organization country for full use as an oiler.

(b) **Terms of Conveyance.**—

(1) *Delivery of vessel.*— In carrying out subsection (a), the Secretary shall deliver the vessel—

(A) at the place where the vessel is located on the date of the conveyance;

(B) in its condition on that date; and

(C) at no cost to the United States Government.

(2) *Required conditions.*— The Secretary may not convey a vessel under this section unless—

(A) competitive procedures are used for sales under this section;

(B) the vessel is sold for not less than the fair market value of the vessel in the United States, as determined by the Secretary of Transportation;

(C) the recipient agrees that any repair, except for emergency repairs, restoration, or reconstruction work for the vessel will be performed in the United States;

(D) the recipient agrees to hold the Government harmless for any claims arising from defects in the vessel or from exposure to hazardous material, including asbestos and polychlorinated biphenyls, after the conveyance of the vessel, except for claims arising before the date of the conveyance or from use of the vessel by the Government after that date;

(E) the recipient provides sufficient evidence to the Secretary that it has adequate financial resources in the form of cash, liquid assets, or a written loan commitment to complete the reconstruction of the vessel; and

(F) with respect to the vessel, the recipient remains subject to all laws and regulations governing the export of military items, including the requirements administered by the Department of State regarding export licenses and certification of nontransfer end use.

(3) *Additional terms.*— The Secretary may require such additional terms in connection with a conveyance authorized by this section as the Secretary considers appropriate.

(c) **Proceeds.**—Any amounts received by the United States as proceeds from the sale of a vessel under this section shall be deposited in the Vessel Operations Revolving Fund established by section 801 of the Act of June 2, 1951 (65 Stat. 59; 46 U.S.C. App. 1241a) and shall be available and expended in accordance with section 6(a) of the National Maritime Heritage Act (16 U.S.C. App. 5405(a)).

## **SEC. 3605. CONVEYANCE OF NDRF VESSEL EX-USS LORAIN COUNTY.**

(a) **Authority To Convey.**—The Secretary of Transportation may convey all right, title, and interest of the Federal Government in and to the vessel ex-USS LORAIN COUNTY (LST-1177) to the Ohio War Memorial, Inc., located in Sandusky, Ohio (in this section referred to as the “recipient”), for use as a memorial to Ohio veterans.

### **(b) Terms of Conveyance.**—

(1) *Delivery of vessel.*— In carrying out subsection (a), the Secretary shall deliver the vessel—

(A) at the place where the vessel is located on the date of conveyance;

(B) in its condition on that date; and

(C) at no cost to the Federal Government.

(2) *Required conditions.*— The Secretary may not convey a vessel under this section unless—

(A) the recipient agrees to hold the Government harmless for any claims arising from exposure to hazardous material, including asbestos and polychlorinated biphenyls, after conveyance of the vessel, except for claims arising before the date of the conveyance or from use of the vessel by the Government after that date; and (B) the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, or a written loan commitment, financial resources of at least \$100,000.

(3) *Additional terms.*— The Secretary may require such additional terms in connection with the conveyance authorized by this section as the Secretary considers appropriate.

(c) **Other Unneeded Equipment.**—The Secretary may convey to the recipient of the vessel conveyed under this section any unneeded equipment from other vessels in the National Defense Reserve Fleet, for use to restore the vessel conveyed under this section to museum quality.

**Coast Guard Authorization Act of 1998.** Public Law 105–383, approved November 13, 1998 (112 STAT. 3411), contains the following provisions:

## **SEC. 427. AUTHORITY TO CONVEY NATIONAL DEFENSE RESERVE FLEET VESSELS.**

(a) **Authority to Convey.**-Notwithstanding any other law, the Secretary of Transportation (referred to in this section as “the Secretary”) may convey all right, title, and interest of the Federal Government in and to either or both of the vessels S.S. AMERICAN VICTORY (United States official number 248005) and S.S. HATTIESBURG VICTORY (United States official number 248651) to The Victory Ship, Inc., located in Tampa, Florida (in this section referred to as the “recipient”), and the recipient may use each vessel conveyed only as a memorial to the Victory class of ships.

### **(b) Terms of Conveyance—**

(1) *Delivery of Vessel.*-In carrying out subsection (a), the Secretary shall deliver a vessel-

(A) at the place where the vessel is located on the date of conveyance;

(B) in its condition on that date; and

(C) at no cost to the Federal Government.

(2) *Required Conditions.*-The Secretary may not convey a vessel under this section unless-

(A) the recipient agrees to hold the Government harmless for any claims arising from exposure to hazardous material, including asbestos and polychlorinated biphenyls, after conveyance of the vessel, except for claims arising before the date of the conveyance or from use of the vessel by the Government after that date; and (B) the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, or a written loan commitment, financial resources of at least \$100,000.

(3) *Additional Terms.*-The Secretary may require such additional terms in connection with the conveyance authorized by this section as the Secretary considers appropriate.

(c) **Other Unneeded Equipment.** -The Secretary may convey to the recipient of any vessel conveyed under this section any unneeded equipment from other vessels in the National Defense Reserve Fleet, for use to restore the vessel conveyed under this section to museum quality.

## **SEC. 428. AUTHORITY TO CONVEY NATIONAL DEFENSE RESERVE FLEET VESSEL, JOHN HENRY.**

(a) **Authority to Convey.**-Notwithstanding any other law, the Secretary of Transportation (in this section referred to as “the Secretary”) may convey all right, title, and interest of the United States Government in and to the vessel JOHN HENRY (United States official

number 599294) to a purchaser for use in humanitarian relief efforts, including the provision of water and humanitarian goods to developing nations.

**(b) Terms of Conveyance—**

(1) *Delivery of Vessel.*—In carrying out subsection (a), the Secretary shall deliver the vessel—

(A) at the place where the vessel is located on the date of conveyance;

(B) in its condition on that date;

(C) at no cost to the United States Government; and

(D) only after the vessel has been redesignated as not militarily useful.

(2) *Required Conditions.*—The Secretary may not convey a vessel under this section unless—

(A) competitive procedures are used for sales under this section;

(B) the vessel is sold for not less than the fair market value of the vessel in the United States, as determined by the Secretary of Transportation;

(C) the recipient agrees that the vessel shall not be used for commercial transportation purposes or for the carriage of cargoes reserved to United States flag commercial vessels under section 901(b) and 901f of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b) and 1241f);

(D) the recipient agrees to hold the Government harmless for any claims arising from exposure to hazardous material, including asbestos and polychlorinated biphenyls, after the conveyance of the vessel, except for claims arising before the date of the conveyance or from use of the vessel by the Government after that date; and

(E) the recipient provides sufficient evidence to the Secretary that it has financial resources in the form of cash, liquid assets, or a written loan commitment of at least \$100,000.

(F) the recipient agrees to make the vessel available to the Government if the Secretary requires use of the vessel by the Government for war or national emergency.

(G) the recipient agrees to document the vessel under chapter 121 of title 46, United States Code.

(3) *Additional Terms.*—The Secretary may require such additional terms in connection with the conveyance authorized by this section as the Secretary considers appropriate.

(c) **Proceeds.**—Any amounts received by the United States as proceeds from the sale of the M/V JOHN HENRY shall be deposited in the

Vessel Operations Revolving Fund established by the Act of June 2, 1951 (chapter 121; 46-U.S.C. App. 1241a) and shall be available and expended in accordance with section 6(a) of the National Maritime Heritage Act (16 U.S.C. App. 5405(a)).

### **3. VESSEL REPAIR AND MAINTENANCE PILOT PROGRAM.**

Section 16 of Public Law 104-239, approved October 8, 1996 (110 STAT. 3138), the Maritime Security Act of 1996, provides:

#### **SEC. 16. VESSEL REPAIR AND MAINTENANCE PILOT PROGRAM.**

(a) **In General.** The Secretary of Transportation shall conduct a pilot program to evaluate the feasibility of using renewable contracts for the maintenance and repair of outported vessels in the Ready Reserve Force to enhance the readiness of those vessels. Under the pilot program, the Secretary, subject to the availability of appropriations and within 6 months after the date of the enactment of this Act, shall award 9 contracts for this purpose.

(b) **Use of Various Contracting Arrangements.** In conducting a pilot program under this section, the Secretary of Transportation shall use contracting arrangements similar to those used by the Department of Defense for procuring maintenance and repair of its vessels.

(c) **Contract Requirements.** Each contract with a shipyard under this section shall—

(1) subject to subsection (d), provide for the procurement from the shipyard of all repair and maintenance (including activation, deactivation, and drydocking) for 1 vessel in the Ready Reserve Force that is outported in the geographical vicinity of the shipyard;

(2) be effective for 1 fiscal year; and

(3) be renewable, subject to the availability of appropriations, for each subsequent fiscal year through fiscal year 1998.

(d) **Limitation of Work Under Contracts.** A contract under this section may not provide for the procurement of operation or manning for a vessel that may be procured under another contract for the vessel to which section 11(d)(2) of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1774(d)(2)) applies.

(e) **Geographic Distribution.** The Secretary shall seek to distribute contract awards under this section to shipyards located throughout the United States.

(f) **Reports.** The Secretary shall submit to the Congress—

(1) an interim report on the effectiveness of each contract under this section in providing for economic and efficient repair and maintenance



of the vessel included in the contract, no later than 20 months after the date of the enactment of this Act; and

(2) a final report on that effectiveness no later than 6 months after the termination of all contracts awarded pursuant to this section.

**4. CONVEYANCE OF EQUIPMENT.** Section 1009 of Public Law 104-324, approved October 19, 1996 (110 STAT. 3959), the Coast Guard Authorization Act of 1996, provides:

**SEC. 1009. CONVEYANCE OF EQUIPMENT.**

The Secretary of Transportation may convey any unneeded equipment from other vessels in the National Defense Reserve Fleet to the JOHN W. BROWN and other qualified United States memorial ships in order to maintain their operating condition.

**5. LIMITED DOUBLE HULL EXEMPTION.**

Section 1103 of Public Law 104-324, approved October 19, 1996 (110 STAT. 3966), the Coast Guard Authorization Act of 1996, amended 46 U.S.C. 3703a(b) in part by the addition of a paragraph (6) to exclude from the double hull requirement: “(6) a vessel in the National Defense Reserve Fleet pursuant to section 11 of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744).”

**6. EXISTING TANK VESSEL RESEARCH.** Section 1134 of Public Law 104-324, approved October 19, 1996 (110 STAT. 3984), the Coast Guard Authorization Act of 1996, provides:

(a) **Funding.**—The Secretary of Transportation shall take steps to allocate funds appropriated for research, development, testing, and evaluation, including the combination of funds from any source available and authorized for this purpose, to ensure that any Government-sponsored project intended to evaluate double hull alternatives that provide equal or greater protection to the marine environment, or interim solutions to remediate potential environmental damage resulting from oil spills from existing tank vessels, commenced prior to the date of enactment of this section, is fully funded for completion by the end of fiscal year 1997. Any vessel construction or repair necessary to carry out the purpose of this section must be performed in a shipyard located in the United States.

(b) **Use of Public Vessels.**—The Secretary may provide vessels owned by, or demise chartered to, and operated by the Government and not engaged in commercial service, without reimbursement, for use in and the support of projects sponsored by the Government for research, development, testing, evaluation, and demonstration of new or improved technologies that are effective in preventing or mitigating oil discharges and protecting the environment.

## C. ARTIFICIAL REEF PROGRAM

**16 U.S.C. 1220 (1999).** State applications for obsolete ships for use as offshore reefs.

(a) **Conservation of marine life.** Any State may apply to the Secretary of Transportation (hereafter referred to in this Act as the "Secretary") for obsolete ships which, but for the operation of this Act, would be designated by the Secretary for scrapping if the State intends to sink such ships for use as an offshore artificial reef for the conservation of marine life.

(b) **Manner and form of applications; minimum requirements.** A State shall apply for obsolete ships under this Act in such manner and form as the Secretary shall prescribe, but such application shall include at least (1) the location at which the State proposes to sink the ships, (2) a certificate from the Administrator, Environmental Protection Agency, that the proposed use of the particular vessel or vessels requested by the State will be compatible with water quality standards and other appropriate environmental protection requirements, and (3) statements and estimates with respect to the conservation goals which are sought to be achieved by use of the ships.

(c) **Copies to Federal officers for official comments and views.** Before taking any action with respect to an application submitted under this Act, the Secretary shall provide copies of the application to the Secretary of the Interior, the Secretary of Defense, and any other appropriate Federal officer, and shall consider comments and views of such officers with respect to the application.

**16 U.S.C. 1220a (1999). Transfer of title; terms and conditions.** If, after consideration of such comments and views as are received pursuant to section 3(c), the Secretary finds that the use of obsolete ships proposed by a State will not violate any Federal law, contribute to degradation of the marine environment, create undue interference with commercial fishing or navigation, and is not frivolous, he may transfer without consideration to the State all right, title, and interest of the United States in and to any obsolete ships which are available for transfer under this Act if—

(1) the State gives to the Secretary such assurances as he deems necessary that such ships will be utilized and maintained only for the purposes stated in the application and, when sunk, will be charted and marked as a hazard to navigation;

(2) the State agrees to secure any licenses or permits which may be required under the provisions of any other applicable Federal law;

(3) the State agrees to such other terms and conditions as the Secretary shall require in order to protect the marine environment and other interests of the United States; and

(4) the transfer would be at no cost to the Government with the State taking delivery of such obsolete ships at fleetside of the National Defense Reserve Fleet in an “as is—where is” condition.

**16 U.S.C. 1220b (1999). Obsolete ships available; number; equitable administration.** A State may apply for more than one obsolete ship under this Act. The Secretary shall, however, taking into account the number of obsolete ships which may be or become available for transfer under this Act, administer this Act in an equitable manner with respect to the various States.

**16 U.S.C. 1220c (1999). Denial of applications; finality of decision.** A decision by the Secretary denying any application for a [an] obsolete ship under this Act is final.

**16 U.S.C. 1220d (1999). Definition of “obsolete ship.”** For purposes of sections 3, 4, 5, and 6, the term “obsolete ship” means any vessel owned by the Department of Transportation that has been determined to be of insufficient value for commercial or national defense purposes to warrant its maintenance and preservation in the national defense reserve fleet and has been designated as an artificial reef candidate.

# VESSEL SCRAPPING<sup>1</sup>

**NATIONAL MARITIME HERITAGE ACT.** Section 6 of Public Law 103-451, as amended (16 U.S.C. 5405 (1998)), the National Maritime Heritage Act provides:

## **SEC. 6. FUNDING (16 U.S.C. 5405 (1999)).**

### **(a) Availability of funds from sale and scrapping of obsolete vessels.**

(1) ***In general.*** Notwithstanding any other provision of law, the amount of funds credited in a fiscal year to the Vessel Operations Revolving Fund established by the Act of June 2, 1951 (46 App. U.S.C. 1241a), that is attributable to the sale of obsolete vessels in the National Defense Reserve Fleet that are scrapped or sold under section 508 or 510(i) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1158 or 1160(i)) shall be available until expended as follows:

(A) 50 percent shall be available to the Administrator of the Maritime Administration for such acquisition, maintenance, repair, reconditioning, or improvement of vessels in the National Defense Reserve Fleet as is authorized under other Federal law.

(B) 25 percent shall be available to the Administrator of the Maritime Administration for the payment or reimbursement of expenses incurred by or on behalf of State maritime academies or the United States Merchant Marine Academy for facility and training ship maintenance, repair, and modernization, and for the purchase of simulators and fuel.

(C) The remainder shall be available to the Secretary to carry out the Program,<sup>2</sup> as provided in subsection (b).

(2) ***Application.*** Paragraph (1) does not apply to amounts credited to the Vessel Operations Revolving Fund before July 1, 1994.

### **(b) Use of amounts for program.**

(1) ***In general.*** Except as provided in paragraph (2), of amounts available each fiscal year for the Program under subsection (a)(1)(C)—

(A) 1/2 shall be used for grants under section 4(b); and

(B) 1/2 shall be used for grants under section 4(c).

(2) ***Use for interim projects.*** Amounts available for the Program under subsection (a)(1)(C) that are the proceeds of any of the first 8 obsolete vessels in the National Defense Reserve Fleet that are sold or scrapped after July 1, 1994, under section 508 or 510(i) of the Merchant Marine Act, 1936 (46 [App.] U.S.C. 1158 or 1160(i)) are available to the

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<sup>1</sup> The Maritime Administration scraps vessels in the National Defense Reserve Fleet under the authority set forth in sections 508 and 510(i) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1158, 1160(i)).

<sup>2</sup> Section 7(4) of the Act defines "Program" to mean the National Maritime Heritage Grants Program established under Section 4 of the Act.

Secretary for grants for interim projects approved under section 4(j) of this Act.

(3) **Administrative expenses.**

(A) *In general.* Not more than 15 percent or \$ 500,000, whichever is less, of the amount available for the Program under subsection (a)(1)(C) for a fiscal year may be used for expenses of administering the Program.

(B) *Allocation.* Of the amount available under subparagraph (A) for a fiscal year—

(i) 1/2 shall be allocated to the National Trust for expenses incurred in administering grants under section 4(b); and

(ii) 1/2 shall be allocated as appropriate by the Secretary to the National Park Service and participating State Historic Preservation Officers.

(c) **Disposals of vessels.**

(1) **Requirement.** The Secretary of Transportation shall dispose of all vessels described in paragraph (2)—

(A) by September 30, 2001;

(B) in a manner that maximizes the return on the vessels to the United States; and

(C) in accordance with the plan of the Department of Transportation for disposal of those vessels and requirements under sections 508 and 510(i) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1158, 1160(i)).

(2) **Vessels described.** The vessels referred to in paragraph (1) are the vessels in the National Defense Reserve Fleet after July 1, 1994, that—

(A) are not assigned to the Ready Reserve Force component of that fleet; and

(B) are not specifically authorized or required by statute to be used for a particular purpose.

(d) **Treatment of amounts available.** Amounts available under this section shall not be considered in any determination of the amounts available to the Department of the Interior.

**NAVY PILOT SCRAPPING PROGRAM.** Section 8124 of Public Law 105–262, approved October 17, 1998 (112 STAT. 2279, 2333), the Department of Defense Appropriations Act, 1999, provides: Sec. 8124. The Secretary of the Navy may carry out a competitively awarded vessel scrapping pilot program during fiscal years 1999 and 2000 using funds made available in this Act under the heading “Operation and Maintenance, Navy”: Provided, That the Secretary of the Navy shall define the program scope sufficient to gather data on the

cost of scrapping Government vessels and to demonstrate cost-effective technologies and techniques to scrap such vessels in a manner that is protective of worker safety and health and the environment.